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Report No. D-2010-054

May 4, 2010

# Inspector General

United States

Department of Defense



## Advisory and Assistance Services Contracts in Support of the Air Force Combat Search and Rescue Helicopter

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## Acronyms and Abbreviations

ACC	Air Combat Command
ASC	Aeronautical Systems Center
CAPS	Consolidated Acquisition of Professional Services
CECOM	Communications and Electronics Command
COR	Contracting Officer's Representative
CSAR-X	Combat Search and Rescue Helicopter
DFARS	Defense Federal Acquisition Regulation Supplement
FAR	Federal Acquisition Regulation
IG	Inspector General
IGCE	Independent Government Cost Estimate
R2	Rapid Response
U.S.C.	United States Code





INSPECTOR GENERAL  
DEPARTMENT OF DEFENSE  
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May 4, 2010

MEMORANDUM FOR UNDER SECRETARY OF DEFENSE FOR ACQUISITION,  
TECHNOLOGY, AND LOGISTICS  
ASSISTANT SECRETARY OF THE ARMY  
(FINANCIAL MANAGEMENT AND COMPTROLLER)  
ASSISTANT SECRETARY OF THE AIR FORCE  
(FINANCIAL MANAGEMENT AND COMPTROLLER)  
AUDITOR GENERAL, U.S. ARMY AUDIT AGENCY

SUBJECT: Advisory and Assistance Services Contracts in Support of the Air Force Combat Search and Rescue Helicopter (Report No. D-2010-054) (U)

(U) We are providing this report for review and comment. We considered management comments on a draft of this report from the Acting Executive Deputy to the Commanding General, U.S. Army Materiel Command, and from the Deputy Assistant Secretary for Acquisition Integration, Office of the Assistant Secretary for the Air Force for Acquisition, when preparing the final report. The Office of the Acting Executive Deputy included comments from the Executive Director, U.S. Army Contracting Center, Communications and Electronics Command. The Office of the Air Force Deputy Assistant Secretary included comments from the Commanders, Air Combat Command and Aeronautical Systems Center, and the Air Staff.

(U) DOD Directive 7650.3 requires that recommendations be resolved promptly. With a few exceptions, the Army and Air Force comments were responsive. Based on Army and Air Force comments, we revised final report Recommendation A.1 and request additional comments. The Army comments regarding this recommendation were nonresponsive. Army comments regarding Recommendation A.3 were responsive; however, in subsequent discussions with CECOM management their planned actions would not meet the suspense date contained in their official comments. Army comments to Recommendation B.1 were responsive; however, the Army was unable to provide us with validation that their planned action had been completed. Therefore, we request that the Commander, U.S. Army Communications and Electronics Command, provide further comments to Recommendations A.1, A.3, and B.1 by June 4, 2010. Air Force comments regarding Recommendations A.2.a, A.2.b, and A.2.c were partially responsive. Therefore, we request further comments from the Commander, Air Combat Command, on these recommendations by June 4, 2010. As a result of Air Force comments, we renumbered the draft report Recommendation B.2.a as B.2 and Recommendation B.2.b as Recommendation B.3 in the final report. Air Force comments regarding Recommendation B.1 and B.2 were responsive but additional actions are needed. Therefore, we request further comments from the Commanders, Air Combat Command and Aeronautical Systems Command, on these recommendations by June 4, 2010.

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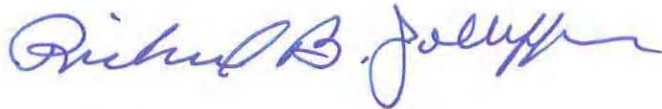
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(U) If possible, send a .pdf file containing your comments to [audacm@dodig.mil](mailto:audacm@dodig.mil). Copies of your comments must have the actual signature of the authorizing official for your organization. We are unable to accept the /Signed/ symbol in place of the actual signature. If you arrange to send classified comments electronically, you must send them over the SECRET Internet Protocol Router Network (SIPRNET).

(U) We appreciate the courtesies extended to the staff. Please direct questions to me at (703) 604-9201 (DSN 664-9201).



Richard B. Jolliffe  
Assistant Inspector General  
Acquisition and Contract Management

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## Results in Brief: Advisory and Assistance Services Contracts in Support of the Air Force Combat Search and Rescue Helicopter (U)

### What We Did (U)

(U) We determined whether contracting for advisory and assistance services supporting the Air Force Combat Search and Rescue Helicopter (CSAR-X) complied with the Federal Acquisition Regulation (FAR) and DOD guidance. We conducted this audit in response to concerns expressed by Senate and House Armed Services Committee staff. We reviewed four advisory and assistance services task orders supporting the combat search and rescue mission, awarded from FY 2006 through FY 2009, totaling \$32.7 million.

### What We Found (U)

(U) U.S. Army Communications Electronics Command (CECOM) and Air Force contracting officials did not obtain competition or ensure fair and reasonable prices when awarding and administering advisory and assistance services task orders supporting the combat search and rescue mission. This occurred because officials limited the amount of time contractors had to respond to requests for proposals, prepared inadequate independent government cost estimates, performed inadequate price and technical analyses, and did not conduct contractor surveillance. In addition, contracting officials permitted contractors to perform potential personal services on three task orders and inherently governmental functions on one task order. This occurred because contracting officials did not comply with the FAR and lacked policies and procedures to make sure that contracting officers provide adequate contract oversight of contractor performance. As a result, the Air Force has no assurance it obtained the best value or that the contractors performed effectively or efficiently on the task orders valued at \$32.7 million.

### What We Recommend (U)

(U) Service Acquisition Executives establish reasonable solicitation response time frames and the Defense Contract Audit Agency

perform an incurred cost audit for one task order; CECOM, ACC, and ASC develop guidance on inherently governmental functions and personal services; ACC and ASC instruct contracting officials to document and fully support independent government cost estimates and price reasonableness determinations; identify contractor positions for conversion to civilian/military positions, and prepare quality surveillance plans that specify the work that requires surveillance and the type of surveillance to be performed; and ASC issue guidance prohibiting contractors from drafting agency comments on Inspector General reports.

### Management Comments and Our Response (U)

(U) Army comments to Recommendation A.1 were nonresponsive. Army comments regarding Recommendation A.3 were responsive; however, in subsequent discussions with CECOM management their planned actions would not meet the suspense date contained in their official comments. Army comments to Recommendation B.1 were responsive; however, the Army was unable to provide us with validation that their planned action had been completed. Therefore, we request that the Commander, CECOM, provide further comments on Recommendations A.1, A.3, and B.1.

(U) Air Force comments to Recommendations A.2.a, A.2.b, A.2.c, and B.2 were partially responsive; however, the Air Force did not specify action taken to ensure cost estimates and price reasonableness determinations are fully supported or provide completion dates for planned action. Therefore, we request that the Commander, ACC, provide further comments on Recommendations A.2.a, A.2.b, A.2.c, and B.2 and the Commander, ASC, provide further comments on Recommendation B.2. Please see recommendations table on the back of this page.



**Recommendations Table (U)**

<b>Management (U)</b>	<b>Recommendations Requiring Comment (U)</b>	<b>No Additional Comments Required (U)</b>
Commander, U.S. Army Communications and Electronics Command	A.1, A.3, B.1	
Commander, Air Combat Command	A.2.a, A.2.b, A.2.c, B.2	B.1
Commander, Aeronautical Systems Center	B.2	A.1, A.2.a, A.2.b, A.2.c, B.1, B.3, B.4

**(U) Please provide comments by June 4, 2010.**

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# **Introduction (U)**

## **Objective (U)**

(U) We determined whether contracting for advisory and assistance services supporting the Air Force Combat Search and Rescue Helicopter (CSAR-X) complied with Federal Acquisition Regulation (FAR) and DOD guidance. We performed this audit to address concerns raised by the Senate and House Armed Services Committees regarding the Air Force's Air Combat Command (ACC) use of advisory and assistance service contracts in support of the CSAR-X. See Appendix A for a discussion of the scope and methodology and prior coverage related to the objective.

## **Background (U)**

(U) ACC is the Air Force's lead agent for combat search and rescue operations. In October 2003, the CSAR-X program and mission transferred from ACC to the Air Force Special Operations Command. On October 1, 2006, the combat search and rescue mission was transferred back to ACC. Headquarters Aeronautical Systems Center (ASC), located at Wright Patterson Air Force Base, Ohio, designs, develops, and delivers aerospace weapon systems and capabilities for the U.S. Air Force, including the combat search and rescue program.

## ***The CSAR-X Program (U)***

(U) The primary mission of the U.S. Air Force combat search and rescue program is to recover isolated personnel from hostile or denied territory. Currently, the Air Force uses the HH-60G Pave Hawk helicopter for combat search and rescue operations. An October 5, 1998, ACC-prepared CSAR-X mission needs statement highlighted HH-60G capability shortfalls in service life; flight characteristics; survivability; responsiveness; cabin space; adverse weather capability; mission equipment; hoist; night vision goggles compatibility; avionics; human factors; and command, control, communication, computer, and intelligence interoperability. The CSAR-X will replace the current fleet of HH-60G helicopters.

## ***CSAR-X Advisory and Assistance Task Orders (U)***

(U) Both ACC and ASC use advisory and assistance services contracts to support ongoing combat search and rescue operations, including the planned CSAR-X acquisition. ACC and ASC obtained CSAR-X advisory and assistance services by placing task orders under separate multiple-award contracts at the U.S. Army Communications and Electronics Command (CECOM) and ASC. The CECOM Rapid Response (R2) multiple-award contract consisted of eight separate indefinite-delivery, indefinite-quantity awards. CECOM competes requirements for a broad range of services as task orders among the eight multiple-award contracts. The ASC Consolidated Acquisition of Professional Services (CAPS) multiple-award contracts provided a wide range of acquisition disciplines and specialties and consisted of nine indefinite-delivery, indefinite-quantity awards. ACC and ASC each awarded one advisory and assistance services task order under the CECOM R2 multiple-award contract, and ASC awarded

two advisory and assistance services task orders under the CAPS multiple-award contract.

## Contract Actions Reviewed (U)

(U) We reviewed four task orders for advisory and assistance services supporting CSAR-X, awarded from FY 2006 through FY 2009, totaling \$32.7 million. The task orders were issued under CECOM and ASC multiple-award contracts for contractor personnel requirements at the ACC CSAR Requirements Office (ACC/A8R) located at Langley Air Force Base, Virginia, and the ASC CSAR-X Program Office located in the 303<sup>rd</sup> Aeronautical Systems Wing (303 AESW) at Wright Patterson Air Force Base, Ohio. Table 1 provides a breakdown of the contracts and task orders reviewed. See Appendix B for a summary of task order deficiencies and Appendix C for further discussion on the specifics of each of the four task orders.

**Table 1. Contract Actions Reviewed (U)**

<b>Requiring Activity(U)</b>	<b>Contracting Activity (U)</b>	<b>Contract/Task Order Number(U)</b>	<b>Estimated Value(U)</b>
ACC/A8R	CECOM	DAAB07-03-D-B010/0138	\$24,843,545
303 AESW	CECOM	DAAB07-03-D-B006/0187	3,000,000
303 AESW	ASC	FA8622-06-D-8509/0031	2,114,882
303 AESW	ASC	FA8622-06-D-8506/0103	2,778,407
<b>Total</b>			<b>\$32,736,834</b>

## CSAR-X Program Status (U)

(U) In the April 6, 2009, speech, “Defense Budget Recommendation Statement,” the Secretary of Defense announced key decisions with respect to the DOD FY 2010 budget, including decisions regarding the CSAR-X helicopter program. The Secretary stated that:

(U) We will terminate the Air Force Combat Search and Rescue X (CSAR-X) helicopter program. This program has a troubled acquisition history and raises the fundamental question of whether this important mission can only be accomplished by yet another single-service solution with single-purpose aircraft. We will take a fresh look at the requirement behind this program and develop a more sustainable approach.\*

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\* (U) DOD, Office of the Assistant Secretary of Defense (Public Affairs). On the Web: <http://www.defenselink.mil/speeches/speech.aspx?speechid=1341>.



## **Criteria (U)**

### ***Advisory and Assistance Services (U)***

(U) FAR Part 2, “Definition of Words and Terms,” defines advisory and assistance services as:

(U) Those services provided under contract by nongovernmental sources to support or improve: Organizational policy development; decision-making; management and administration; program and/or project management and administration; or R&D [Research and Development] activities. It can also mean the furnishing of professional advice or assistance rendered to improve the effectiveness of Federal management processes or procedures (including those of an engineering or technical nature).

### ***Competition in Contracting Act (U)***

(U) The Competition in Contracting Act is implemented in section 2304, title 10, United States Code (10 U.S.C. 2304). When conducting procurement for property or services, 10 U.S.C. 2304 states that the agency shall obtain full and open competition through the use of competitive procedures in accordance with the requirements of this chapter and the FAR.

### ***Price Reasonableness Determination (U)***

(U) The FAR requires that contracting officers purchase supplies and services from responsible sources at fair and reasonable prices. The tools used for determining the price reasonableness of a service contract include independent government cost estimates (IGCEs), technical evaluations of labor hours and labor mix, and price negotiation memoranda.

## **Review of Internal Controls (U)**

(U) DOD Instruction 5010.40, “Managers’ Internal Control (MIC) Program Procedures,” January 4, 2006, require DOD organizations to implement a comprehensive system of internal controls that provides reasonable assurance that programs are operating as intended and to evaluate the effectiveness of the controls. We identified internal control weaknesses for ACC, ASC, and CECOM. Specifically, internal controls were not in place to ensure that contractors, providing services under multiple-award contracts, are provided sufficient time to respond to task order solicitations; that IGCEs and price reasonableness decisions were supported; that adequate contractor surveillance was performed on advisory and assistance services task orders; and that contractors do not perform inherently governmental functions. Implementing the recommendations in Findings A and B will improve internal control deficiencies identified in this report. We will provide a copy of the final report to the senior official(s) responsible for internal controls in the Army and Air Force.

## **Finding A. Award and Administration of Advisory and Assistance Services Contracts (U)**

(U) Air Force program and contracting officials and CECOM contracting officials did not obtain competition or otherwise ensure that prices were fair and reasonable when awarding four advisory and assistance services task orders supporting the CSAR-X program. In addition, contracting officials did not adequately oversee the four task orders. This occurred because these officials did not comply with FAR and DFARS requirements when awarding and administering these task orders. Specifically on all four task orders officials:

- (U) circumvented fair opportunity to be considered for award by unduly limiting time for contractors to respond,
- (U) did not prepare adequate IGCEs,
- (U) performed inadequate price and technical analyses, and
- (U) did not establish appropriate contractor surveillance plans or conduct sufficient surveillance.

(U) As a result, the Air Force has no assurance it obtained the best value or that the contractors performed effectively or efficiently on the task orders valued at \$32.7 million.

### **Task Orders Reviewed (U)**

(U) Air Force and CECOM officials circumvented fair opportunity by limiting the amount of time contractors had to submit bids for task orders, prepared inadequate IGCEs, performed inadequate price and technical analyses, and performed inadequate contractor surveillance.

#### ***Fair Opportunity to Submit Bids for Task Orders (U)***

(U) For each of the task orders issued under multiple-award contracts, Air Force and CECOM contracting officials did not provide contractors with a fair opportunity to submit bids. For three of these orders, the sole bidder and awardee was the incumbent contractor. FAR 16.505(b)(1)(iii), "Ordering," requires contracting officers to consider the amount of time contractors need to make informed business decisions on whether to respond to potential orders. Limiting the amount of time contractors are allowed to make informed business decisions denies fair opportunity and limits competition.

~~(FOUO)~~ On September 13, 2006, CECOM awarded task order 0138 to Lear Siegler Inc. (LSI) for contractor services performed at ACC, Langley Air Force Base. Although the scope of work outlined in the performance work statement was complex, the contracting officer only allowed the contractors 1 business day to indicate their intention to respond to the proposed task order, and 5 business days to provide a task execution plan. Only one of the eight contractors provided a proposal. [REDACTED]

and is



listed as the one known source of supply on the performance work statement. [REDACTED]

The task order period of performance included one 4-month base period and 4 option years. The task order had a potential ceiling value of \$24.8 million. The purpose of the task order was to provide services to support:

- (U) management and process planning,
- (U) acquisition subject matter expertise,
- (U) system engineering,
- (U) military operations analysis,
- (U) modeling and simulation support,
- (U) technical writing and editing, and
- (U) information technology support.

(U) According to the contracting officer's technical representative for this task order, the short response time afforded contractors on this task order to submit proposals was consistent with the goal of the R2 contract of awarding task orders quickly. For task orders 0103, 0031, and 0187, contractors were allowed 3 to 5 business days to submit proposals. On task orders 0103 and 0031, only incumbent contractors submitted proposals.

### ***Independent Government Cost Estimates (U)***

(U) The Air Force developed incomplete and inadequate IGCEs for the four advisory and assistance services task orders supporting the combat search and rescue mission. For all four task orders, estimates consisted of a combination of labor rates, categories, hours, or total costs with no explanation of how estimates were developed. FAR 15.406-1(a), "Prenegotiation Objectives," states that contracting officials should establish the Government's initial negotiation position with the use of various analyses and techniques including the IGCE. The information gathered should assist contracting officials in deciding the fairness and reasonableness of proposals received from contractors. See Table 2 for a cost comparison between the independent government cost estimates and contractor proposal.

**Table 2. Independent Government Cost Estimate versus Contractor Proposal (U)**

<b>Task Order Number (U)</b>	<b>IGCE (U)</b>	<b>Contractor Proposal</b> <del>(FOUO)</del>	<b>Difference</b> <del>(FOUO)</del>
0138	\$21,100,000	[REDACTED]	[REDACTED]
0187	\$3,000,000	[REDACTED]	[REDACTED]
0031	\$2,123,780	[REDACTED]	[REDACTED]
0103	\$2,884,554	[REDACTED]	[REDACTED]

~~(FOUO)~~ On task order 0138, dated August 8, 2006, the IGCE totaled \$21.1 million. Although the IGCE contained various labor categories, labor rates, and applicable hours, the estimate did not summarize the methodology used to determine the applicable labor categories and hours. [REDACTED]

[REDACTED] A September 5, 2006, technical evaluation that the chief for CSAR-X requirements performed stated that the IGCE did not factor in prime contractor labor, material, travel cost, Secure Internet Protocol Router capability, or various computer hardware system pieces. However, the requirements chief considered the proposed costs fair and reasonable without performing an analysis of the contractor's proposed costs. The IGCE for task orders 0103 and 0031 were undated and unsigned and also lacked specific detail as to the methodology employed to arrive at the required hours. Both estimates appeared to be based on the contractor proposals, not on a detailed Government analysis. In all these cases, prices were accepted as proposed.

### ***Price Reasonableness Decisions (U)***

~~(FOUO)~~ Contracting officials did not conduct adequate price reasonableness determinations for the four task orders reviewed and program officials did not adequately document and support that the prices paid were fair and reasonable. FAR 15.404-1, "Proposal Analysis Techniques," states that the objective of proposal analysis is to ensure that the final agreed-to price is fair and reasonable and states that the contracting officer is responsible for evaluating the reasonableness of offered prices. Even when fair opportunity is provided and only one offer is received, contracting officials must be cognizant of their responsibility to obtain reasonable prices. [REDACTED]

[REDACTED] The determination of price reasonableness that the contracting officer signed on September 12, 2006, stated the other direct costs included all of [REDACTED] labor costs and that \$1.59 million in material and travel costs were sufficiently broken down in the proposal to be considered fair and reasonable. Merely stating that all subcontractor labor costs are included and other costs are sufficiently broken down does not provide due diligence that prices are reasonable. In addition, a September 5, 2006, CSAR-X requirements chief's price/cost evaluation did not describe the methodology employed, or analysis performed, when determining the various labor categories, hours, travel, and proposed material costs used to determine price reasonableness.

### ***Contractor Surveillance (U)***

(U) Air Force officials performed inadequate contractor surveillance on the four advisory and assistance task orders supporting CSAR-X that we reviewed. FAR Subpart 46.4, "Government Contract Quality Assurance," states that a quality assurance plan should be prepared in conjunction with preparation of the statement of work, should specify all work requiring surveillance, and the method of surveillance. It also requires the Government to conduct quality assurance to ensure the contractor is performing in accordance with the statement of work. In addition, Defense Federal Acquisition Regulation Supplement (DFARS) Subpart 201.6, "Career Development, Contracting Authority, and Responsibilities," requires contracting officers to assign in writing a qualified representative to assist in monitoring the administration and technical aspects of the contract. Surveillance

of contractor performance and cost is essential to protect the interests of the Government. Although contracting officer representatives were designated in writing, their surveillance consisted primarily of a review of contractor invoices and contractor-generated status reports. Surveillance plans had not been developed to ensure that time and materials billed to the Government were accurate and reasonable for each tasking. Because these are time-and-materials task orders, the Air Force reimburses the contractor based on the actual cost of materials, travel, and direct labor hours at specified fixed hourly rates that include wages, indirect costs, and profit. Therefore these task orders require appropriate Government oversight to ensure the contractor is performing efficiently.

## **Contract Competition Environment (U)**

(U) By not providing all contractors sufficient time to respond to requests for proposals under multiple-award contracts, contracting officers created an environment where incumbent contractors were more likely to submit proposals. By not fostering a competitive environment in which all potential contractors were provided a fair opportunity to compete under multiple-award contracts, contracting officers may not obtain competitive prices for services. Also, since CSAR-X program officials did not adequately support price reasonableness decisions, there is no assurance that prices paid for CSAR advisory and assistance services were fair and reasonable.

## **Obtaining Best Value for CSAR-X Services (U)**

(U) The Air Force has no assurance it obtained the best value for advisory and assistance services in support of the combat search and rescue mission, and no assurance that contractors are performing efficiently or effectively. The Air Force relies on the use of advisory and assistance services contracts to support current and future combat search and rescue operations. To ensure it obtains the best value for these services, the Air Force must create a competitive environment in which qualified contractors are encouraged to bid on each task order under multiple-award contracts. To ensure reasonable prices are obtained, IGCEs and price reasonable decisions need to be supportable and reflect the level of effort required under each task order. In addition, increasing contract oversight and reporting of contractor performance for each of the four combat search and rescue advisory and assistance task orders and obtaining an incurred cost audit from the Defense Contract Audit Agency on the largest dollar task order reviewed (task order 0138) will reduce contract risk and ensure that the Air Force pays only for the contracted services performed.

## **Management Comments on the Finding and Our Response (U)**

### ***Army Comments (U)***

(U) The Executive Director, CECOM Contracting Center, Army Contracting Command, provided comments on the report finding regarding price reasonableness determinations for task orders 0187 and 0138. Specifically, for task order 0187, the executive director stated that because two proposals were received, price competition established price reasonableness for this task order. In addition to price competition, the acting executive



director stated that the contract specialist compared the proposed rates to those currently on contract and found them to be identical. The contract specialist also compared subcontractor pricing to prime rates of similar labor categories already on contract to establish price reasonableness. On task order 0138, the executive director stated price reasonableness was also established through price competition along with a similar review of proposed labor rates. The executive director did agree that travel and material under other direct costs should have been more properly analyzed and stated that the CECOM Contracting Center will ensure that future price reasonableness decisions would properly consider all other direct costs.

### ***Our Response (U)***

(U) FAR 15.404-1, "Proposal Analysis Techniques," states that the objective of proposal analysis is to ensure that the final agreed-to price is fair and reasonable and states that the contracting officer is responsible for evaluating the reasonableness of offered prices. Even when fair opportunity is provided and only one offer is received, contracting officials must be cognizant of their responsibility to obtain reasonable prices. On task order 0187, only one reasonable offer was received, and on task order 0138, only one offer was received. Because limited competition was obtained on both task orders, even more scrutiny should be applied to each proposal when making price reasonableness decisions. By only comparing proposed rates with those established in the R2 multiple-award contract, contracting officials made incomplete and inadequate price reasonableness determinations for task orders 0187 and 0138. Without verifying the proposed labor categories and proposed hours per labor category are reasonable, contracting officials cannot ensure that the overall price is reasonable.

### ***Air Force Comments (U)***

(U) The Deputy Assistant Secretary for Acquisition Integration, Office of the Assistant Secretary for the Air Force for Acquisition, stated the information provided in the report did not support the finding that only incumbent contractors were likely to submit proposals.

### ***Our Response (U)***

(U) As discussed in this report, for three of the four task orders reviewed, the sole bidder and awardee was the incumbent contractor. We believe by not providing all contractors sufficient time to respond to requests for proposals under multiple-award contracts, contracting officers created an environment where incumbent contractors were more likely to submit proposals.

## **Recommendations, Management Comments, and Our Response (U)**

### ***Revised Recommendation (U)***

(U) As a result of management comments, we revised draft report Recommendation A.1, which required the Commanders, Aeronautical Systems Center and U.S. Army Communications and Electronics Command, to request that the Director, Defense

Procurement and Acquisition Policy, establish reasonable solicitation response time frames.

**(U) A.1. We recommend that the Commanders, Aeronautical Systems Center and U.S. Army Communications and Electronics Command, request that their respective Service Acquisition Executives establish reasonable solicitation response time frames.**

### ***Army Comments (U)***

(U) The Executive Director, CECOM Contracting Center, Army Contracting Command, disagreed and stated each solicitation needs to establish response times that are reasonable for the specific effort, and did not agree that the Director, Defense Procurement, needs to establish reasonable response time frames for each multiple-award task order. In addition, the executive director stated that FAR Part 16.505(b)(1)(ii) allows broad discretion to the contracting officer to determine appropriate ordering procedures.

### ***Our Response (U)***

(U) The Army comments are not responsive. Although FAR Part 16.505(b)(1) allows broad discretion to the contracting officer to determine appropriate ordering procedures, it also states contracting officers should consider the amount of time contractors need to make informed business decisions on whether to respond to potential orders when developing ordering procedures. We do not believe that contractors can make informed business decisions when asked to indicate their intention to respond to a task order within 1 business day, and provide a proposal within 5 business days on a task order valued at more than \$24 million. We request that the executive director reconsider his position on establishing reasonable solicitation response time frames.

### ***Air Force Comments (U)***

(U) The Deputy Assistant Secretary for Acquisition Integration, Office of the Assistant Secretary for the Air Force for Acquisition (Deputy Assistant Secretary), partially agreed with our draft report recommendation and provided comments from the Aeronautical Systems Command and the Air Staff. The Deputy Assistant Secretary stated that it would be difficult for the Director, Defense Procurement and Acquisition Policy, to establish time frames for all solicitations, but agreed that minimum timelines are necessary to ensure fair opportunity to submit bids for all competitors. The Deputy Assistant Secretary also stated that to ensure reasonable solicitation time frames are applied to the Consolidated Acquisition of Professional Services (CAPS) contracts on a case-by-case basis, the Director, Acquisition Excellence, ASC, issued guidance detailing mandatory time frames based on dollar value and complexity of potential acquisitions on December 17, 2009.

### ***Our Response (U)***

(U) The Deputy Assistant Secretary comments were responsive and no further comments are required.

**(U) A.2. We recommend that the Commanders, Air Combat Command and Aeronautical Systems Center, instruct contracting officials to:**

**(U) a. Document and fully support the methodology used to prepare independent government cost estimates.**

**(U) b. Document and support price reasonableness determinations.**

### ***Air Force Comments (U)***

(U) The Deputy Assistant Secretary agreed with the intent of Recommendations A.2.a and A.2.b, noting that guidance was being developed that requires all CAPS program estimates be signed, dated, and the methodology used to develop the estimate be explained. Further, he noted that no solicitation may be released until an appropriately documented and signed estimate was provided. ASC issued guidance on December 1, 2009, regarding independent government cost estimates. The Deputy Assistant Secretary also noted that the U.S. Army CECOM contracting office awarded the contract and was responsible for reviewing and requesting refinement of information ACC provided to adequately evaluate the reasonableness of the final proposed price. Subsequent documentation of that decision was within the U.S. Army CECOM organization, not ACC.

### ***Our Response (U)***

(U) The Deputy Assistant Secretary comments were partially responsive to Recommendations A.2.a and A.2.b. As the requiring activity, ACC is required to develop independent government cost estimates in accordance with “Air Force Purchases Using Military Interdepartmental Purchase Requests,” August 2007. The ACC CSAR requirements office had obtained similar services under existing Air Force contract vehicles since 1995 and was best positioned to document and support the methodology used to prepare independent government cost estimates and support price reasonableness determinations. Thus we request the Commander, ACC, to provide a response to the final report specifying what action ACC will take to ensure independent government cost estimates and price reasonableness determinations are fully supported.

**(U)c. Prepare quality assurance surveillance plans that specify the work that requires surveillance and the type of surveillance to be performed.**

### ***Air Force Comments (U)***

(U) The Deputy Assistant Secretary agreed with the intent of the recommendation, noting that the surveillance plans should not be the prime focus of ensuring inherently governmental duties are not being performed by contractors. Specifically, he commented that this was the responsibility of the contracting officer to ensure contract duties being requested are not inherently governmental. The Deputy Assistant Secretary also noted ASC agreed with the recommendation, and as a part of the CAPS program’s initiative to establish a robust and disciplined oversight and surveillance program, it will be necessary to review and revise current policies on quality assurance plans and the type of surveillance performed under CAPS task orders. Policies will better focus on ensuring plans adequately detail work requiring surveillance and the methods to be employed. The

estimated completion date for CAPS is June 1, 2010. The Deputy Assistant Secretary commented that ACC had agreed to work with U.S. Army CECOM to refine the existing quality assurance surveillance and performance plans. Additionally, ACC will work with the ACC Quality Assurance Division on any future service contracts. The Deputy Assistant Secretary stated that the estimated completion date for ACC was November 30, 2009.

### ***Our Response (U)***

(U) The Deputy Assistant Secretary comments were responsive however planned actions had not been completed as stated. We request that the Deputy Assistant Secretary provide verification or a date when the recommended action will be completed.

**(U) A.3. We recommend the Commander, U.S. Army Communications and Electronics Command, request the Defense Contract Audit Agency perform an incurred cost audit for task order 0138.**

### ***Army Comments (U)***

(U) The Executive Director, CECOM Contracting Center, Army Contracting Command, agreed with the recommendation and stated the contracting officer for contract DAAB07-03-D-B006 would request an incurred cost audit for task order 0138 no later than December 7, 2009.

### ***Our Response (U)***

(U) The executive director's comments were responsive; however, in subsequent discussions CECOM management stated the contracting officer would not request an incurred cost audit for this task order until performance was complete. We request that the Executive Director, CECOM Contracting Center, provide verification or a date when the recommended action will be completed.



## **Finding B. Contractor Performance of Inherently Governmental Functions (U)**

(U) Air Force and CECOM contracting officials did not ensure that they retained full responsibility for inherently governmental functions associated with one advisory and assistance services task order. In addition, three task orders supporting the combat search and rescue mission included indicators of personal services. Specifically, officials permitted contractors to perform potentially inherently governmental functions and personal services by allowing:

- (U) contracted services to exceed a period of 1 year;
- (U) all contractor performance to be completed on site;
- (U) principal tools, space, and equipment to be provided by the Government; and
- (U) contractor employees to perform services under working conditions that were indistinguishable from Government personnel.

(U) These conditions occurred because Air Force and CECOM contracting offices did not comply with the FAR and lacked policies and procedures to make sure that contracting officers correctly administer task orders and provide adequate contract oversight to ensure that contractors are not performing inherently governmental functions or providing personal services. As a result, ASC and CECOM contracting officers did not protect the best interest of the Government on \$32.7 million in advisory and assistance services task orders supporting the combat search and rescue mission and did not determine whether Government employees could have performed these functions more cost effectively.

### **Inherently Governmental and Personal Services Criteria (U)**

(U) The FAR is the primary regulation all Federal Executive agencies use in the acquisition of supplies and services. Specifically, the FAR provides the following guidance for inherently governmental functions and personal services:

- (U) FAR 2.101, “Definitions,” states that an inherently governmental function is a function that is so intimately related to public interest as to mandate performance by Government employees. These functions include those activities that require either the exercise of discretion in applying Government authority or making of value judgments in making decisions for the Government.
- (U) FAR 7.5, “Inherently Governmental Functions,” provides examples of inherently governmental functions, and functions that are not inherently governmental but have the potential of becoming inherently governmental depending on the nature of the function. Additionally, there should be written documentation stating that none of the functions to be performed are inherently governmental.

- (U) FAR 37.104, “Personal Services Contracts,” states that personal services contracts are defined by the employer-employee relationship created between the Government and the contractor’s personnel. Additionally, greater scrutiny and an enhanced degree of management oversight is exercised when contracting for functions that are not inherently governmental but closely support the performance of inherently governmental functions.
- (U) FAR 37.114, “Special Acquisition Requirements,” states that contractors working in situations where their contractor status is not obvious to third parties are required to identify themselves as contractors.

## **Insourcing Contracted Services (U)**

(U) Section 324 of Public Law 110-181, “National Defense Authorization Act for Fiscal Year 2008,” January 28, 2008, requires the Under Secretary of Defense for Personnel and Readiness “devise and implement guidelines and procedures to ensure that consideration is given to using, on a regular basis, Department of Defense civilian employees to perform new functions and functions that are performed by contractors and could be provided by Department of Defense civilian employees.” The guideline also provides for “special consideration to be given to using Department of Defense civilian employees to perform any function that is closely associated with the performance of an inherently governmental function.”

(U) Deputy Secretary of Defense memorandum, “In-sourcing Contracted Services - Implementation Guidance,” May 28, 2009, emphasizes existing DOD policies, statutes, and procedures. The insourcing implementation guidance defines insourcing as the conversion of any currently contracted service or function to DOD civilian or military performance, or combination. Insourcing actions include the conversion of contracted functions considered inherently governmental. Specifically:

- (U) Officials should develop an insourcing plan and designated insourcing program officials should consider the types of services performed and the ratio of contract support to in-house performance within various functional areas;
- (U) Requiring officials, contracting officials, contracting officers representatives, and contracting officer technical representatives should work together to prioritize contracted services for insourcing; and
- (U) The requiring official must provide the contracting officer with a written determination that functions performed are not inherently governmental and will not violate provisions of the FAR on contracting for personal services.

## **Inherently Governmental Functions (U)**

(U) FAR 2.101 identifies inherently governmental functions as functions so intimately related to public interest as to mandate performance by Government employees. ASC contracting and quality assurance personnel allowed contractor employees to perform inherently governmental functions for contract FA8622-06-D-8509, task order 0031.

Specifically, between October and November 2008, task order 0031 contractor Acquisition Management duties included:

- (U) reviewing a DOD Inspector General (IG) draft report on the CSAR-X requirements development process, and
- (U) providing comments on the report to the Air Force to support an Air Force response to the draft report.

(U) According to contractor-submitted status reports, these duties helped to ensure that the DOD IG final report to Congress was complete, accurate, and defensible. However, the referenced draft report, issued October 31, 2008, contained warnings advising that distribution of the proposed report outside DOD is not authorized. There must be safeguards preventing publication or improper disclosure of the information in the report. FAR 7.503, "Policy," states that contracts should not be used for the performance of inherently governmental functions, and FAR 7.503(c) (20) states that "the drafting of . . . agency responses to audit reports from the Inspector General" is an inherently governmental function. The use of contractor personnel to support the response to the IG audit report specifically contradicted FAR 7.5 examples of functions considered inherently governmental.

## **Personal Services Contracts (U)**

(U) FAR 37.104 identifies a personal services contract by the employer-employee relationship established between Government and contractor personnel. This relationship occurs when a Government employee provides continuous supervision of subcontractor personnel. The Government is normally required to obtain its employees by direct hire under competitive appointment or other procedures under civil service laws. Awarding personal services contracts is prohibited unless a specific statute authorizes the acquisition.

(U) In addition, when assessing whether a proposed contract is personal in nature, the FAR provides the following descriptive elements as potential indicators of personal services contracts:

- (U) performance on site;
- (U) principal tools and equipment furnished by the Government;
- (U) the need for the type of service provided can reasonably be expected to last beyond 1 year; and
- (U) inherent nature of the service, or manner in which provided, reasonably requires direct or indirect Government supervision of contractor employees.

(U) Of the four task orders reviewed, three task orders contained contract requirements that indicate the potential presence of personal services. Specifically, Government employees exercised continuous supervision over contractors performing services on task orders 0138, 0187, and 0031. Government employees located at the CSAR-X program office reviewed contractor work daily, and reported unsatisfactory and exceptional

performance to the Quality Assurance Personnel and Government Task Leads. Additionally, Government employees located at ASC and ACC maintained communications with all contractors, performed contractor performance assessments, validated contractor invoices, approved travel requests, and provided day-to-day oversight and inspections to verify that contractors complied with technical requirements.

(U) Additionally, task orders 0138 and 0187 dictated contractor use of Government-furnished working space and equipment for performing contracted services on site at Wright Patterson Air Force Base and Langley Air Force Base. These two task orders also provided contracted services that exceeded 1 year. The period of performance for contract DAAB07-03-D-B010, task order 0138 included a 4-month base period with four 1-year option periods. The period of performance for contract DAAB07-03-D-B006, task order 0187 was for 48 months from contract award.

(U) Finally, on contract FA8622-06-D-8509, task order 0031, Innovative Technologies Corporation consistently reported among its recurring administrative support duties the management of a CSAR-X morale fund to include providing flowers and farewell mementos to both Government and contractor personnel. According to contractor-prepared status reports, the fund helped maintain a positive perspective for personnel working in the CSAR-X program office and enhanced relationships within the organization. We believe the contractor's management of the CSAR-X morale fund is an unallowable contracted personal service.

## Contractor Personnel (U)

(U) Of the four task orders reviewed, one task order supported work performed at Headquarters, ACC, and three task orders supported work performed at ASC. The table below identifies the contracts reviewed, the total number of current Government and contractor personnel at each ACC or ASC office supported, the total number of contractor staff assigned to each contract task order, and the percentage of contractor staff to total personnel associated with each task order.

**Table 3. Contractor Personnel (U)**

Contract and Task Order Number (U)	Location of Performance (U)	Total Government and Contractor Personnel at Location (U)	Total Contractor Personnel at Location (U)	Contractor Personnel as a Percentage of Total Personnel (U)
DAAB07-03-D-B010/0138	ACC/A8R	38	17	45
DAAB07-03-D-B006/0187	ASC	59*	3	5
FA8622-06-D-8509/0031	ASC	59*	12	20
FA8622-06-D-8506/0103	ASC	59*	4	7

\* (U) There are 59 total personnel located at the Aeronautical Systems Command CSAR-X program office, who provide combat search and rescue support for the CSAR-X program.



(U) Section 2463, title 10, United States Code, requires the Under Secretary of Defense for Personnel and Readiness to develop guidelines and procedures to ensure that consideration is given to DOD civilian employees to perform new functions or functions currently performed by contractors. Additionally, Deputy Secretary of Defense memorandum, “In-sourcing Contracted Services-Implementation Guidance,” states that insourcing is the conversion of any currently contracted services and functions to DOD civilian or military personnel. Insourcing actions include the conversion of contractor employees performing functions considered inherently governmental. Additionally, officials should develop an insourcing plan and designated insourcing program officials should consider the types of services performed and the ratio of contract support to in-house performance within various functional areas.

(U) ACC, Directorate of Requirements, contractor personnel accounted for 17 of 38, or 45 percent, total personnel positions providing services at the Directorate of Requirements office. ASC CSAR-X program office contractor personnel accounted for 19 of 59, or 32 percent, of the total personnel positions providing services at the CSAR-X program office. Since contractor personnel currently provide services that directly apply to the combat search and rescue mission, we believe that this mission should be subject to the requirements of 10 U.S.C. 2463 and the Deputy Secretary of Defense memorandum, “In-sourcing Contracted Services-Implementation Guidance.”

## **Contractor Identification (U)**

(U) FAR 37.114 states that contractors working in situations where their contractor status is not obvious to third parties are required to identify themselves as contractors. Additionally, agencies must ensure that all contractor personnel attending meetings, answering Government telephones, and working in other situations where their contractor status is not obvious, must identify themselves.

(U) Contractors located at the ASC CSAR-X program office are organized in a functional manner, separating the acquisition, technical, financial, and contract divisions. Contractor employees work within each section and are intermingled with civilian and military employees; however, they are readily identifiable. Each contractor’s workspace identifies the contractor with a sign specifying the contractor’s name and company. Additionally, contractor personnel are required to identify themselves as contractors when answering the telephone at the CSAR-X program office.

(U) However, contractors located at the ACC CSAR requirements office are not readily identifiable. Contractors are colocated in the same space with Government employees and Government supervisors. The Government organization chart and telephone roster list both civilian and military employees and contractor personnel together under assigned DOD system telephone numbers. There is nothing to distinguish Government employees from contractor personnel. As a result, outside visitors or callers to the ACC CSAR requirements office cannot readily identify contractor personnel from civilian/military employees. Additionally, our visual inspection of the ACC CSAR requirements office space verified that contractors do not wear identification or have work stations that identify them as contractor personnel. As a result, contractor status is

not obvious to third parties and thus contractor personnel may create the impression of being Government employees with the ability to fully represent the Government.

## **Contractor Oversight (U)**

(U) FAR Part 7.5 states that there should be written documentation that no functions to be performed will be inherently governmental. Additionally, FAR 37.104 states that awarding personal services contracts is prohibited. Of the four task orders reviewed, task orders 0138 and 0187 included contracting officer-approved memoranda for the record stating that support services required were not for personal services. However, there was no written documentation stating that performance of contractor functions was not inherently governmental, as required by the FAR. Task orders 0103 and 0031 included contracting officer-approved documentation stating that support required for this task order was not inherently governmental. Even though each task order contained contracting officer-approved documentation stating that contract services were either not inherently governmental or for personal services, contracting officers still allowed contractors to perform inherently governmental functions and personal services.

(U) FAR Part 37.1 states that the contracting officer is responsible for ensuring that a proposed contract for services is proper and agencies shall not award a contract for the performance of inherently governmental functions or personal services. FAR 37.114 states that an enhanced degree of management oversight should be exercised when contracting for functions that are not inherently governmental but closely support the performance of inherently governmental functions. Of the four task orders reviewed, task orders 0138 and 0187 followed the CECOM R2 surveillance plan that provided the contracting officer with procedures required to accurately monitor the performance of the CECOM multiple-award task order support contracts. Additionally, task order 0138 followed a supplementary R2 surveillance plan that established procedures for monitoring, reporting, and evaluating the performance of the contractor. However, neither surveillance plan contained specific contract oversight provisions to discourage or prevent Government personnel from tasking contractors with inherently governmental functions or providing personal services. The remaining two task orders, 0031 and 0103, followed Performance Management Plans that provide guidance on assessing, documenting, and managing contractor performance. However, those plans also did not contain specific contract oversight provisions to discourage or prevent Government personnel from tasking contractors with inherently governmental functions or providing personal services.

(U) Since ASC and CECOM contracting officers allowed contractors to perform inherently governmental functions and personal services, we believe that the contracting officers did not exercise a sufficient degree of management oversight over functions that supported the combat search and rescue mission. As a result, ASC and CECOM contracting officers did not protect the best interest of the Government when contracting and providing contract oversight on advisory and assistance services task orders supporting the combat search and rescue mission.

## **Government's Best Interest (U)**

(U) Air Force and CECOM contracting offices lack internal controls to make certain that contracting officers correctly administer task orders and provide adequate contract oversight to ensure that the contractor is not performing inherently governmental functions or providing personal services. The Air Force contracting and quality assurance personnel allowed contractors to perform inherently governmental functions on one task order, and we found indicators of personal services associated with three of the four task orders reviewed. In these examples, we found minimal evidence of Government oversight due to the lack of Air Force and CECOM internal controls and standard operating procedures, which help prevent the performance of inherently governmental functions and personal services by contractor personnel. As a result, ASC and CECOM contracting officers did not protect the best interest of the Government on \$32.7 million in advisory and assistance services task orders supporting the combat search and rescue mission and did not determine whether Government employees could have performed these functions more cost effectively.

## **Management Comments on the Finding and Our Response (U)**

(U) The Deputy Assistant Secretary for Acquisition Integration, Office of the Assistant Secretary for the Air Force for Acquisition (Deputy Assistant Secretary), stated he was concerned with the premise of the finding regarding personal services contracts. He believed that the fact that these task orders have contractors who perform on site, are provided Government-furnished tools and equipment, or that services provided may last beyond 1 year did not mean the contractors were performing personal services.

### ***Our Response (U)***

(U) The FAR provides various descriptive elements as potential indicators of personal services contracts. Of the four task orders reviewed, three task orders contained contract requirements detailed in the FAR that indicate the potential presence of personal services. The intent of this finding and recommendation was to ensure proper safeguards are in place to discourage and prevent Government personnel from tasking contractors with the performance of inherently governmental functions and personal services.

## **Recommendations, Management Comments, and Our Response (U)**

### ***Revised and Renumbered Recommendations (U)***

(U) As a result of Air Force comments to recommendations in a draft of this report, we renumbered Recommendation B.2.a as B.2. We revised and renumbered the draft report Recommendation B.2.b as Recommendation B.3 to apply only to the Commander, Aeronautical Systems Center, in the final report. We also renumbered Recommendation B.3 as B.4.



**(U) B.1. We recommend that the Commander, Air Combat Command; Commander, Aeronautical Systems Center; and the Commander, U.S. Army Communications and Electronics Command, develop policies and procedures detailing specific contract oversight requirements to discourage and prevent Government personnel from tasking contractors with the performance of inherently governmental functions and personal services.**

### ***Army Comments (U)***

(U) The Executive Director, CECOM Contracting Center, Army Contracting Command, partially agreed with the recommendation. The executive director stated that, to his knowledge, no inherently governmental functions have been performed under the CECOM task orders. In addition, the executive director stated that CECOM does have a contracting officer's representative (COR) contracting handbook, which reiterates the policies and procedures for the COR, including reporting the prompt reporting of suspected procurement fraud, bribes, and conflicts of interest. However, the Command recognizes the need for further clarification in the guidance for the COR to ensure that contractors are performing within the statement of work on contract and no inherently governmental functions and personal services are performed. The executive director stated the CECOM Contracting Center will amend the COR handbook to reemphasize the need for oversight that will prevent the rendering of services considered to be inherently governmental functions or personal services in nature. Also the COR handbook would be revised to require that surveillance plans specifically address this issue. The executive director estimated the guidance would be completed by December 1, 2009.

### ***Our Response (U)***

(U) The executive director's comments were responsive to Recommendation B.1. However, the Army was not able to provide us with validation that the COR handbook had been revised to address inherently governmental functions or personal services. We request that the executive director provide such verification or provide a specific date as to when the recommended action will be completed.

### ***Air Force Comments (U)***

(U) The Deputy Assistant Secretary, agreed with the recommendation. The Deputy Assistant Secretary stated that the CAPS program office was overhauling its oversight and surveillance requirements and when completed would provide training to its customers. The goal of the new oversight program was to create a robust and disciplined process to ensure compliance with contract, regulatory, and statutory requirements. This process will be fully up and running no later than June 1, 2010. The deputy also stated that as of August 3, 2009, ACC had continuously reinforced the FAR requirements for support contractors to be clearly identified and posted signage outside each cubicle to assist visitors with this identification as well.

### ***Our Response (U)***

(U) The Deputy Assistant Secretary comments were responsive and no further comments are required.

**(U) B.2. We recommend that the Commanders, Air Combat Command and Aeronautical Systems Center, identify, within 60 days from the date of the final report, which contractor positions should be converted to civilian or military positions, in accordance with section 324 of Public Law 110-181, “National Defense Authorization Act for Fiscal Year 2008,” and the May 28, 2009, Deputy Secretary of Defense memorandum, “In-sourcing Contracted Services-Implementation Guidance.”**

### ***Air Force Comments (U)***

(U) The Deputy Assistant Secretary agreed with the intent of the recommendation, stating that the Air Force was in the process of reviewing its support contract inventory to meet the intent of section 2463, title 10, United States Code, to ensure that contracts are not let for inherently governmental functions, that personal services contracts are performed in accordance with applicable statutory and regulatory guidelines, and would review each for potential conversion to Government performance.

### ***Our Response (U)***

(U) The Deputy Assistant Secretary comments were responsive except the deputy did not provide us with an estimated time frame as to when it would be completed. We request that the Commanders Air Combat Command and Aeronautical Systems Center provide a specific date as to when the recommended action will be completed.

**(U) B.3. We recommend that the Commander, Aeronautical Systems Center, perform an administrative review to determine who tasked contractors to perform inherently governmental functions and personal services, and take appropriate disciplinary actions.**

### ***Air Force Comments (U)***

(U) The Deputy Assistant Secretary agreed with the intent of the recommendation, and stated that ASC conducted an administrative review and found that no Government employee specifically directed the contractor to manage the morale fund. Program officials removed this duty from the contractor. The CSAR-X program office issued a policy memorandum on management of the morale fund.

### ***Our Response (U)***

(U) The Deputy Assistant Secretary comments were responsive and no further comments are required.

**(U) B.4. We recommend that the Commander, Aeronautical Systems Center, issue guidance advising contracting officers that the release of Inspector General draft reports outside DOD without the explicit permission of the Department of Defense Office of Inspector General is strictly prohibited, and that contractors are prohibited from drafting agency comments to Inspector General reports, in accordance with Federal Acquisition Regulation 7.503, “Inherently Governmental Functions.”**

### ***Air Force Comments (U)***

(U) The Deputy Assistant Secretary agreed with the intent of the recommendation and stated that the Air Force Materiel Command is in the process of developing policy/guidance to ensure all acquisition personnel understand the requirements and prohibitions associated with Office of Inspector General draft audit reports. The estimated issue date for formal guidance is June 30, 2010. In the interim, on February 5, 2010, the Commander, ASC, issued guidance instructing all ASC personnel that release of DOD Inspector General draft reports to contractor personnel is prohibited.

### ***Our Response (U)***

(U) The Deputy Assistant Secretary comments were responsive and no further comments are required.

## **Appendix A. Scope and Methodology (U)**

(U) We conducted this performance audit from December 2008 through September 2009 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. The audit resulted from congressional concerns on the Air Force's use of advisory and assistance service contracts in support of CSAR-X.

(U) To achieve the audit objectives, we identified and reviewed four task orders providing advisory and assistance services in support of CSAR-X, valued at \$32.7 million, issued under Army and Air Force multiple-award contracts. We reviewed documentation maintained at the contracting and program offices to support purchases made under multiple-award contracts. The specific documents reviewed were military interdepartmental purchase requests and acceptances, statements of work, cost proposals, contract award documents, contracting officer's technical representative's letters, determination and finding documents, task orders, surveillance plans, price negotiation memoranda, contract modifications, requests for proposals, IGCEs, and other miscellaneous correspondence dated from March 2005 through June 2009. We interviewed program managers, finance officials, and contracting officer's technical representatives covering purchase requirements and acquisition, competition, fair and reasonable price determination, and the monitoring of contracts.

(U) We performed our review at the offices of the Assistant Secretary of the Air Force for Acquisition; U.S. Air Force Air Combat Command and Aeronautical Systems Center; and the U.S. Army Communications and Electronics Command. Our purpose was to determine whether advisory and assistance services supporting the Air Force CSAR-X program were in accordance with the FAR and DOD guidance. Additionally, we interviewed contracting and program office officials located at U.S. Air Force Air Combat Command and Aeronautical Systems Center and the U.S. Army Communications and Electronics Command.

### **Use of Computer-Processed Data (U)**

(U) We did not use computer-processed data to perform this audit.

### **Prior Coverage (U)**

(U) During the last 5 years, the DOD IG has issued one report discussing the Air Force CSAR-X helicopter. Unrestricted DOD IG reports can be accessed at <http://www.dodig.mil/audit/reports>.

### **DOD IG (U)**

(U) DOD IG Report No. D-2009-027, "Air Force Search and Rescue Helicopter," December 8, 2008



## Appendix B. Task Order Deficiencies (U)

(U) Of the four task orders reviewed, all had administrative problems. The following table provides the deficiencies identified with each task order.

Task Order Number (U)	Task Order Ceiling Value (U)	Unduly Limited Response Time (U)	Inadequate Government Cost Estimate (U)	Inadequate Price and Technical Analysis (U)	Inadequate Contractor Surveillance (U)	Performance of Inherently Governmental Functions(U)	Performance of Personal Services (U)
Communications and Electronics Command-Fort Monmouth, New Jersey							
0138	\$24,843,545	•	•	•	•		•
0187	3,000,000	•	•	•	•		•
Aeronautical Systems Center-Wright Patterson Air Force Base, Ohio							
0031	\$2,114,882	•	•	•	•	•	•
0103	2,778,407	•	•	•	•		

## **Appendix C. Description of Task Orders Reviewed (U)**

### **Task Order 0138 (U)**

(U) U.S. Army CECOM awarded this task order under R2 multiple-award contract DAAB07-03-D-B010, to Lear Seglar Incorporated (LSI), on September 13, 2006. The task order period of performance includes one 4-month base period and 4 option years. The task order has a potential task order ceiling value of \$24.8 million. The purpose of the task order is to provide services supporting management and process planning, acquisition subject matter expertise, system engineering, military operations analysis, modeling and simulation support, technical writing and editing, and information technology support for the Air Force's ACC.

### **Task Order 0187 (U)**

(U) U.S. Army CECOM awarded this task order under R2 multiple-award contract DAAB07-03-D-B006, to ARINC Engineering Services, LLC, on September 26, 2006. The period of performance for the entire task order is 48 months from the date of contract award, and specific periods of performance will be as specified on each discrete Engineering Assignment. The task order has an estimated ceiling value of \$3 million, and provided U.S. Air Force Special Operations Forces with weapons acquisition, program management, financial analysis, engineering, and logistics support for the U.S. Air Force prime mission equipment in support of the MC-130 Combat Talon, AC-130U Gunship, Predator, and CSAR-X programs.

### **Task Order 0031 (U)**

(U) ASC awarded this task order under the CAPS multiple-award contract FA8622-06-D-8509, to Innovative Technologies Corporation, on April 23, 2008, with a task order period of performance through March 31, 2009. This task order has an estimated value of \$2.1 million, and provided acquisition management, acquisition logistics, test and evaluation, engineering, and administrative support to supplement ASC Government organic resources.

### **Task Order 0103 (U)**

(U) ASC awarded this task order under the CAPS multiple-award contract FA8622-06-D-8506, to LOGTEC, Inc., on January 30, 2009, with a task order period of performance through January 16, 2010. This task order has an estimated total value of \$2.8 million, which includes CSAR-X advisory and assistance services valued at \$716,868. The task order added contracted personnel positions in the areas of financial management, acquisition management, acquisition logistics, engineering, configuration and data management, test and evaluation, and Government-furnished property specialist support. Contracted services under this task order supplement Government organic resources at ASC and support the MC-130 Combat Talon, AC-130U Gunship, Battlefield Airman, and CSAR-X programs.

# Department of the Army Comments (U)



REPLY TO  
ATTENTION OF:

DEPARTMENT OF THE ARMY  
HEADQUARTERS, U.S. ARMY MATERIEL COMMAND  
9301 CHAPEK ROAD  
FORT BELVOIR, VA 22060-5527

AMCIR

22 JAN 2010


MEMORANDUM FOR DODIG, ATTN: Mr. Marc Avers, Room 737, OIG, DoD, 400 Army Navy Drive, Arlington, VA 22202-4704

SUBJECT: Command Reply to DoDIG Draft Report for, "Audit of Advisory and Assistance Services Contracts in Support of the Air Force Combat Search and Rescue Helicopter," September 25, 2009, (Project No. D-2009-D000AB-0073) (D0912).

1. The U.S. Army Materiel Command (AMC) has reviewed subject draft report and endorses the enclosed command comments.

2. The AMC point of contact is [REDACTED]

Encl

  
TERESA W. GERTON  
Acting Executive Deputy  
to the Commanding General



REPLY TO  
ATTENTION OF:

DEPARTMENT OF THE ARMY  
U.S. ARMY CONTRACTING COMMAND  
9301 CHAPEK ROAD  
FORT BELVOIR, VA 22060-5527

AMSCC-CG

NOV 25 2009

MEMORANDUM FOR Ms. Susan McCoy, Director, Internal Review and Audit Compliance  
Office, Headquarters, U.S. Army Materiel Command, 9301 Chapek Road, Fort Belvoir, VA  
22060

SUBJECT: Audit of Advisory and Assistance Services Contracts in Support of the Air Force  
Combat Search and Rescue Helicopter (Project No. D2009-D000AB-0073.000)

1. The U.S. Army Contracting Command (ACC) has reviewed the subject draft report.  
Responses and recommendations from the U.S. Army Communications and Electronics  
Command (CECOM) are enclosed.

2. The ACC point of contact is [REDACTED]

Encl

*for J. Parsons Col, GS*  
JEFFREY P. PARSONS  
Executive Director





**DEPARTMENT OF THE ARMY**

HEADQUARTERS, U.S. ARMY CONTRACTING COMMAND-CECOM CONTRACTING CENTER  
FORT MONMOUTH, NEW JERSEY 07703-5000

REPLY TO  
ATTENTION OF

CCCE

**MEMORANDUM THRU**

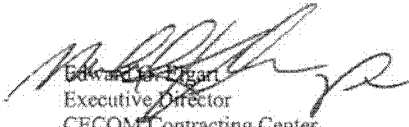
CECOM Life Cycle Management Command Internal Review Office, ATTN: John E. Riley,  
Building 826, Fort Monmouth, NJ 07703

FOR Executive Director, United States Army Contracting Command, ATTN: AMSCC-IR, Ms.  
Avis Hawkins, 9301 Chapek Road, Fort Belvoir, VA 22060-5527

SUBJECT: U.S. Army Contracting Command-CECOM Contracting Center Reply to DODIG  
Draft Report: Advisory and Assistance Services Contracts in Support of the Air Force Combat  
Search and Rescue Helicopter (Project Number: D2009-D000AB-0073.000)

1. Command comments on the subject report are enclosed.
2. Point of contact is [REDACTED]

Encl  
as

  
Edward J. Fegan  
Executive Director  
CECOM Contracting Center  
Army Contracting Command

**ARMY MATERIEL COMMAND  
RESPONSE TO DoDIG DRAFT REPORT:  
Audit of Advisory and Assistance Services Contracts in Support  
of the Air Force Combat Search and Rescue Helicopter  
Report No. D2009-D000AB-0073.000**

**AUDIT CONCLUSION:**

The auditors found that:

*"The U.S. Army Communications and Electronics Command (CECOM), hereafter referred to as CCCE, contracting officials did not obtain competition or otherwise ensure that prices were fair and reasonable when awarding and administering two task orders for advisory and assistance services supporting the combat search and rescue mission. The two task orders are DAAB07-03-D-B010/0138, hereafter referred to as (Task Order 0138) and DAAB07-03-D-B006/0187, hereafter referred to as (Task Order 0187). Specifically officials did not comply with the Federal Acquisition Regulation and Defense Federal Acquisition Regulation Supplements by:*

- *limiting the amount of time contractors had to respond to requests for proposals, allowing only 1 to 5 business days (Task Order 138 and Task Order 187);*
- *preparing inadequate independent government cost estimates (Task Order 138 and Task Order 187);*
- *performing inadequate price and technical analyses (Task Order 138 and Task Order 187);*
- *performing inadequate contractor surveillance (Task Order 138 and Task Order 187);*
- *And permitting contractors to perform prohibited personal services (Task Order 138 and Task Order 187).*

*Additionally, CECOM internal controls were ineffective. They identified weaknesses involving the award, administration, and oversight of the two advisory and assistance services task orders."*

**ADDITIONAL CLARIFYING COMMENTS:**

**Comments on Draft Report, page 6.** Draft report on page 6 states that, *"contracting officials did not determine adequate price reasonableness determinations for Task Order 0138 and Task Order 0187."*

**Reference Task Order 0187:** The CECOM Contracting Center did determine adequate price reasonableness for Task Order 0187. The request for task execution plan was sent to the eight prime contractors. Two proposals were received. FAR 15.404-1(b)(2)(i) states "Comparison of proposed prices received in response to the solicitation. Normally, adequate price competition establishes price reasonableness (see 15.403-1(c)(1))." The awarded task order was the lower of the proposals by more than 50%. The basic award was based on full and open

competition. The time and material rates that were bid at that time were binding and were incorporated into the resultant contract. In addition to the price competition, the contract specialist compared the proposed prime rates to those currently on contract and found them to be identical, as well as, comparing the subcontractor pricing to prime rates of similar labor categories already on contract. The contracting officer therefore determined the price to be reasonable.

**Reference Task Order 0138:** CECOM Contracting Center, on Task Order 0138: The request for task execution plan was sent to the eight prime contractors. While only one proposal was received, there was a reasonable expectation that more than one offer would be received. The contract specialist performed priced analysis by comparing the prime labor rates, and G&A to those rates already on contract and they were found to be identical to those on contracts. [REDACTED]

The contract specialist took the proposed vendor rates and compared them to two approved subcontractors that already had similar labor categories on the basic contract. The analysis concluded that the vendor rates were comparable. The command does concur that the travel and material under the ODCs should have been more properly analyzed in the price analysis. The CECOM Contracting Center will ensure immediately that these areas will be properly addressed in future determinations of price reasonableness.

#### **RECOMMENDATIONS FOR THE COMMANDER, CECOM**

**RECOMMENDATION A-1:** *"Request that the Director, Defense Procurement and Acquisition Policy establish reasonable solicitation response time frames."*

Revised

#### **COMMAND COMMENTS AND ACTION TAKEN**

Nonconcur. Each solicitation needs to establish response times that are reasonable for the specific effort. The command does not concur that the Director, Defense Procurement needs to establish reasonable solicitation response time frames that are applicable to each Multiple Award Task Order (MATO) orders. The Rapid Response Project contracts were established to execute a unique, competitive, and streamlined business process that will allow United States Federal Government managers to acquire contractor-provided equipment and services. Task Order 0187 and Task Order 0138 are task orders under Multiple Award Task Order contracts. FAR Part 16.505 b (1) (ii) allows broad discretion to the Contracting Officer to determine appropriate ordering procedures. Each contractor had known from the time of the solicitation, Statement of Work paragraph 3.2.1.2 (Enclosure 01), that a quick turn around was expected on the request for task execution plans and had developed internal processes to allow them to respond quickly. Thus, for Task Order 0187 and Task Order 0138, the command believes the established response times were reasonable.

**RECOMMENDATION A-3:** *"Request the Defense Contract Audit Agency perform an incurred cost audit for Task Order 0138."*

#### **COMMAND RESPONSE AND ACTION TAKEN**

Concur. The current contracting officer for DAAB07-03-D-B006 will request an incurred cost audit for Task Order 0138 no later than 7 December 2009.

**RECOMMENDATION B-1:** *"Develop policies and procedures detailing specific contract oversight requirements to discourage and prevent Government personnel from tasking contractors with the performance of inherently governmental functions and personal services."*

#### **COMMAND RESPONSE AND ACTION TAKEN**

Partly Concur. The contracting office has determined from the review of the statement of work that it does not contain requirements for performance of inherently governmental functions or personnel services. To our knowledge, no inherently governmental functions have been performed under the CECOM task orders. Surveillance is required to be done under service contracts to ensure the contractor is in compliance with the contract. The CCCE does have a Contracting Officer Representative's (COR) Handbook, (Enclosure 02), which reiterates the policies and procedures for a COR. SECTION III: GENERAL COR DUTIES, paragraph e states "In no event will the COR permit the Contractor to furnish materials or services in addition to, less than, or different from those required by the contract." SECTION III: GENERAL COR DUTIES, paragraph r states, "Report promptly and directly to the Contracting Officer on any suspected procurement fraud, bribery, conflicts of interest, or other improper conduct on the part of the contractor, its employees or other Government Officials." Section VIII, COR DUTIES - TASK ORDER CONTRACTS paragraph 1 states... "Because of the very nature of such contracts, however, they provide the opportunity for abuse and/or abrogation of the traditional checks and balances in DOD Acquisition. For this reason, it is desirable for each contracting activity within CECOM to have policies and procedures established toward assuring that control of task order contracts remains within the contracting activity. No regulation or procedure, however, can be substituted for the common sense, diligence, and the firm and proper application of authority by the Contracting Officer. Task order contracts must be managed in a manner to prevent the appearance of personal services, employee-employer relationship between Government and contractor employees, co-mingling or co-locating Government and contractor employees in ways which induce personal service relationships, and organizational conflicts of interest. The intent is that the Government does not tell the contractor to make Government decisions, and that the Government does not require or allow the contractor to perform tasks inherently Governmental in nature."

However, the command does recognize the need for further clarification in the guidance for the CORs to ensure that the Contractors are performing the statement of work on contract and no inherently governmental functions and personnel services are performed. The CCCE will amend the COR handbook to reemphasize the need for oversight that will prevent the rendering of services considered to be inherently governmental functions or personnel services in nature. The COR handbook will also be revised to require that surveillance plans specifically address this issue. These two changes to the procedures will be implemented by the CECOM Contracting Center no later than 1 December 2009.



# Department of the Air Force Comments (U)



OFFICE OF THE ASSISTANT SECRETARY

DEPARTMENT OF THE AIR FORCE  
WASHINGTON, DC

DEC 7 2009

MEMORANDUM FOR DEPARTMENT OF DEFENSE INSPECTOR GENERAL  
ATTN: PROGRAM DIRECTOR, ACQUISITION AND  
CONTRACT MANAGEMENT

FROM: SAF/AQX

SUBJECT: Air Force Response to Department of Defense Inspector General (DoDIG) Draft  
Report, Project Number D2009-D00AB-0073.000, Advisory and Assistance  
Services Contracts in Support of the Air Force Combat Search and Rescue  
Helicopter (Your Memo, 25 Sep 09)

This is in reply to your memorandum requesting comments and proposed management  
actions on the subject draft report dated 25 September, 2009. We have reviewed the subject  
report and provided comments from Air Combat Command (ACC), Aeronautical Systems Center  
(ASC), and from the Air Staff.

Any questions that you or your staff may have concerning these responses may be  
directed to [REDACTED]

  
BLAISE J. DURANTE  
Deputy Assistant Secretary  
(Acquisition Integration)  
Assistant Secretary (Acquisition)

Attachment:  
Air Force Comments to Draft Report

Department of Defense  
Office of Inspector General  
Review of Draft Report of Audit  
Advisory and Assistance Services Contracts in Support of the Air Force Combat Search and Rescue  
Helicopter  
(Project No. D2009-D000AB-0073.000)

**Recommendation A.1.** We recommend that the Commanders, U.S. Army Communications and Electronics Command and Aeronautical Systems Center (ASC), request that the Director, Defense Procurement and Acquisition Policy establish reasonable solicitation response time frames.

Revised

**ASC Management Comments.** Concur with Intent.

ASC remains firmly dedicated to providing contractors a fair opportunity to submit bids and encouraging competition. We agree that unreasonable limitations on contractor response times can influence their decision to respond to Requests for Proposals. However the determination of whether time limitations are reasonable or unreasonable is largely driven by the individual circumstances of each acquisition. Therefore, we question whether the Director, Defense Procurement and Acquisition Policy, could establish reasonable solicitation response time frames that would be appropriate for all acquisitions or even for acquisitions under the limited framework of our multiple award indefinite delivery/indefinite quantity contract framework.

To ensure reasonable solicitation time frames are applied to the Consolidated Acquisition of Professional Services (CAPS) contracts on a case-by-case basis, the Director, Acquisition Excellence, will issue guidance detailing mandatory time frames based on dollar value and complexity of potential acquisitions. The estimated completion is date 1 Dec 2009.

**Air Force Response:** Concur with intent. The FAR purposely provides flexibility to contracting officers to determine the timeframes needed to obtain contractor bids. The issue needs to focus on whether the time frame allotted to submit bids for these task orders were within the parameters established in the contract itself. We are concerned that the information provided does not support the finding that only incumbent contractors were likely to submit proposals. We also believe it would be difficult for DPAP to establish timeframes for all solicitations, but agree minimum timelines are necessary to ensure fair opportunity to submit bids for all competitors.

**Recommendation A.2.** We recommend that the Commanders, Air Combat Command (ACC) and ASC instruct contracting officials to:

- a. Document and fully support the methodology used to prepare independent government cost estimates;
- b. Document and support price reasonableness determinations; and
- c. Prepare quality assurance surveillance plans that specify the work that requires surveillance and the type of surveillance to be performed.

**ASC Management Comments.**

**A.2.a. Concur.**

While the independent government cost estimates were prepared well in advance of solicitations and by appropriate parties under the CAPS program, documentation within the contract files could have been clearer with regards to who had prepared the estimates, when the estimate was prepared and what methodology was used. The Chief of the Contracted Services Management Division is preparing guidance requiring all estimates provided to the CAPS program must be signed, dated and contain an explanation of the methodology used to develop the estimate. This guidance will dictate that no solicitation may be released until an appropriately documented and signed estimate has been provided. Estimated completion date is 1 Dec 2009.

**A.2.b. Concur with Intent.**

We agreed price reasonableness determinations must be adequately documented and supported. This is especially important when fair opportunity is provided and only one offer is received.

CAPS solicitations generally provide a Government's Estimated Contractor Level of Support, complete with the labor categories to be utilized, the number of personnel in each category, the number of labor hours and the travel costs, as a starting point for the offerors to build their proposal. Offerors are not required to propose in accordance with this estimate; they may offer an alternate staffing approach. Contracting officers must therefore, as a part of their evaluation, first determine whether offerors have proposed in accordance with the government's estimate. If offerors have, the contracting officer does not conduct an analysis of the reasonableness of that portion of the proposal. The contracting officer instead focuses on the offerors' proposed rates as well as the total evaluated price for a proposal. All CAPS contractor maximum rates were analyzed by the Air Force in 2006 and were found to be fair and reasonable as a part of the source selection that resulted in the awards of the basic contracts. Analysis is conducted to ensure the proposed rates do not exceed the fair and reasonable maximum contractor rates under CAPS. The total evaluated price is also compared with the independent government cost estimate, which was received by the contracting officer prior to issuance of the solicitation.

To ensure this information concerning price reasonableness determinations is adequately captured with contract file documentation, the Chief of the Contracted Services Management Division has directed that standardized language be developed and included in all contract files where price reasonableness determinations are made in accordance to the process outlined above. This will ensure the contracting

officer's standard procedures are adequately described and captured. Estimated completion date is 1 Dec 2009.

ASC will continue to train the contracting workforce on proper procedures for documentation of price reasonableness. This training will be based on "A Guide to Writing a Good Price Negotiation Memorandum (PNM) Or Price Competition Memorandum (PCM)" dated May 2007, published by HQ AFMC/PKPB. This training will be provided during regular ongoing training to the entire ASC Contracting workforce.

#### **A.2.c. Concur with Intent.**

As a part of the CAPS program's initiative to establish a robust and disciplined oversight and surveillance program, it will necessary to review and revise current policies on quality assurance plans and the type of surveillance performed under CAPS task orders. Policies will better focus on ensuring plans adequately detail work requiring surveillance and the methods to be employed. Estimated completion date for CAPS is 1 Jun 2010.

ASC is committed to developing a vigorous and disciplined management and oversight program. We are currently engaged in an active training plan, providing JIT training to individual teams, targeting specific program needs. Additionally, we are increasing awareness of the workforce at large on management and oversight requirements through numerous venues. We recently implemented standardized, robust Quality Assurance Personnel training across the Center. Increased thoroughness and continuity of approach will be further addressed through additional tools (currently in draft form), including a Performance Plan template, Functional Commander/Director Training, Services Designated Official Training, and a Services Database. The synergy of these various tools will increase awareness of management and oversight requirements and processes and result in better plans specifying the work to be performed and the surveillance required.

#### **ACC Management Comments.**

**A.2.a and b.** ACC concurs with intent. This contract was awarded by the US Army CECOM contracting office which was responsible for reviewing and requesting refinement of information provided by ACC to adequately evaluate the reasonableness of the final proposed price. Subsequent documentation of that decision was within the Army CECOM organization, not ACC.

**A.2.c.** ACC Concur with intent. ACC/A8 will work with CECOM to refine the existing quality assurance surveillance plan (i.e., performance plan) and the ACC AMIC/POA, Quality Assurance Division, on any future service contracts. Completion NLT 30 Nov 09.

**Air Force Response:** Concur with ASC and ACC comments, but add that the surveillance plans should not be the prime focus of ensuring inherently governmental duties are not being performed, that is the upfront responsibility of the contracting officer to ensure contract duties being requested are not inherently governmental.



**Recommendation B.1.** We recommend that the Commander, U.S. Army Communications and Electronics Command; the Commander, ACC; and the Commander, ASC, develop policies and procedures detailing specific contract oversight requirements to discourage and prevent Government personnel from tasking contracts with the performance of inherently governmental functions and personal services.

**ASC Management Comments.** Concur.

Policies and procedures exist within Air Force and the Air Force Materiel Command (AFMC) concerning contract oversight requirements. The CAPS program office is in the process of overhauling its oversight and surveillance requirements. When complete ASC/AQ will fully implement the guidance and provide training to all CAPS customers. The goal of the new oversight program is to create a robust and disciplined process to ensure compliance with contract, regulatory and statutory requirements. This process will be fully up and running no later than 1 Jun 2010. To meet this deadline, the estimated completion dates of the major implementation milestones are as follows:

Completion of implementation plan	14 Dec 2009
Issuance of new surveillance requirements	11 Jan 2010
Start new surveillance training	1 Feb 2010
Start site visit program	15 Feb 2010
Surveillance training to all customers	1 Jun 2010

ASC is focusing on updating and standardizing a Center-wide approach to management and oversight. Our spiral approach includes developing training and guidance and implementing each piece as it is complete, and integrating these pieces into a synergistic whole. We will maintain insight into the compliance with these policies, procedures, and guidance via a Services Database, which will track detailed management and oversight compliance. ASC staff works closely with each services acquisition team to correctly address management and oversight issues, including discouraging and preventing performance of inherently government functions and personal services by contractor personnel.

**ACC Management Comments.** ACC concurs with intent. HQ ACC does not engage contractors in the performance of inherently governmental functions. HQ ACC does not task contractors to perform personal services. HQ ACC/JA provides annual ethics training to ensure all government personnel understand the difference between personal and non-personal service contracts. ACC/A8 provides annual ethics training for all government personnel which is scheduled to occur at A8 call on 5 Feb 2010. Individuals missing this training will report completion NLT 26 Feb 2010. After 3 Aug 09, ACC/A8R has continuously reinforced the FAR requirements for support contractors to be clearly identified to ensure clear understanding of the individual's role supporting HQ ACC when working with other government agencies or contractors. ACC/A8R posted signage outside each cubicle to assist visitors with this identification as well.

**Air Force Response: Concur with ASC and ACC comments.** It is also not clear as to whether these were the only tasks assigned in the surveillance plan or if the COR did not follow the surveillance plan.

**Recommendation B.2.** We recommend that the Commanders, ACC and ASC:

- a. Identify, within 60 days from the date of the final report, which contractor positions should be converted to civilian or military positions, in accordance with Section 324 of Public Law 110-181, "National Defense Authorization Act for Fiscal Year 2008," and the May 28, 2009, Deputy Secretary of Defense memorandum, "In-sourcing Contracted Services – Implementation Guidance."
- b. Perform an administrative review to determine who tasked contractors to perform inherently governmental functions and personal services and take appropriate disciplinary actions.

**ASC Management Comments.**

**B.2.a. Concur with Intent.**

ASC is currently engaged in the process of identifying those contractor positions which should be converted to civilian or military positions. With more than 1580 A&AS employees, this is a large and complex undertaking. It is unlikely all positions will be identified within 60 days from the date of the final report. ASC will continue to meet Air Force deadlines for identification and conversion of contractor positions.

**ACC Management Comments.**

**B.2.a.** ACC concurs with intent. At the time of contract award in 2006, HQ ACC was utilizing available resources to meet its requirement to deliver warfighting capability to the field. Given the long term documented shortages of government personnel, HQ ACC hired contractors to meet this mission critical need. HQ ACC is currently working to convert contractor positions to civilian positions in FY 10 – FY 15 timeframe in compliance with the May 28, 2009, Deputy Secretary of Defense memorandum, "In-sourcing Contracted Services-Implementation Guidance". HQ ACC is working this program internally in compliance with this policy memo.

**ASC Management Comments.**

**B.2.b. Concur with Intent.**

Administrative review is needed to determine how, in fact, contractors performed inappropriate tasks. Initial reviews of both cases outlined within this report indicate there was no willful intention to direct contractors to perform inappropriate functions. However to ensure that these situations are not repeated, we need to find out how these situations resulted and build in protections within our processes to ensure they do not occur again. If in the conduct of that review we learn behavior occurred that warrants disciplinary actions, this behavior will be reported to the Commander and appropriate actions will be carried out. Estimated completion of administrative review is 1 Jan 2010.

Revised

Renumbered as  
Recommendation  
B.2

Renumbered as  
Recommendation  
B.3

**ACC Management Comments:**

**B.2.b.** ACC concurs with intent. Based on conversations with DoD IG audit team, ACC believes this recommendation was not intended for ACC. Request removing ACC from this recommendation.

**Air Force Response:**

**Concur with intent.** However, we have concern with the basic premise of this recommendation regarding personal services contracts. The fact that these task orders have contractors that perform on site; or are provided government furnished tools and equipment; or that the service provided may last beyond one year does not mean they are performing personal services. The Air Force is in the process of reviewing our support contract inventory to meet the intent of Title 10 USC, Section 2463, and DEPSECDEF memo In-Sourcing Contracted Services—Implementation Guidance, dated 28 May 2009, to ensure contracts are not let for inherently governmental functions, that personal services contracts are performed in accordance with applicable statutory and regulatory guidelines, and review each for potential conversion to government performance.

**Recommendation B.3.** We recommend that the Commander, ASC, issue guidance advising contracting officers that the release of Inspector General draft reports outside of the DoD without the explicit permission of the Department of Defense Office of the Inspector General is strictly prohibited and that contractors are prohibited from drafting agency comments to Inspector General reports, in accordance with Federal Acquisition Regulation 7.503, "Inherently Governmental Functions."

**ASC Management Comments.** Concur with Intent.

AFMC is in the process of developing policy/guidance to ensure all acquisition personnel understand the requirements and prohibitions associated with Department of Defense Office of the Inspector General draft reports. All acquisition personnel, including contracting officers, will be advised to follow the policy/guidance. Estimated issue date for this formal guidance is 30 Jun 2010. In the meantime, the ASC/CC will issue guidance instructing all ASC personnel that release of DoD IG draft reports to contractor personnel is prohibited. The estimated issuance of the interim ASC guidance is 1 Dec 2009.

**Air Force Response: Concur with ASC Response**

Renumbered as  
Recommendation  
B.4



OFFICE OF THE ASSISTANT SECRETARY

DEPARTMENT OF THE AIR FORCE  
WASHINGTON, DC

27 Jan 2010

MEMORANDUM FOR DEPARTMENT OF DEFENSE INSPECTOR GENERAL  
ATTN: PROGRAM DIRECTOR, ACQUISITION AND  
CONTRACT MANAGEMENT

FROM: SAF/AQX

SUBJECT: Follow-up to Report Advisory and Assistance Services Contracts in Support of the  
Air Force Combat Search and Rescue Helicopter (Project Number D2009-D00AB-  
0073.000)

Attached is an updated status on corrective actions taken for recommendations A.1, A.2.a, A.2.b, A.2.c, B.1, B.2.a, B.2.b, and B.3 in response to the findings and recommendations made in subject report. These corrective actions were projected for action/ completion between 30 Nov 2009 and 11 Jan 2010. We request Recommendations A.1; A.2.a; A.2.b; B.2.a and B.2.b be closed.

Any questions that you or your staff may have concerning these responses may be directed to [REDACTED].

BLAISE J. DURANTE  
Deputy Assistant Secretary  
(Acquisition Integration)  
Assistant Secretary (Acquisition)

Attachment  
Updated Status on Corrective Actions



**DEPARTMENT OF THE AIR FORCE**  
HEADQUARTERS AERONAUTICAL SYSTEMS CENTER (AFMC)  
WRIGHT-PATTERSON AIR FORCE BASE OHIO

17 DEC 2009

MEMORANDUM FOR ASC/AQZ

FROM: ASC/AQ

SUBJECT: Consolidated Acquisition of Professional Services (CAPS) Solicitation Time Frames

Reference: Department of Defense, Office of Inspector General (DoD IG), Draft Report of Audit, Advisory and Assistance Services Contracts in Support of the Air Force Combat Search and Rescue Helicopters (Project No. D2009-D000AB-0073.00)

1. The DoD IG has expressed concerns that unreasonable time limitations could negatively impact contractors' ability to respond to CAPS solicitations. We agree contractors must be given reasonable time frames to build their proposals. This serves the Government's best interest by increasing competition and results in better proposals. CAPS contract clause H024, Ordering Procedures (Sep 2004) (Tailored), stipulates contractors shall provide proposals within five (5) working days of the date of the solicitation. CAPS contractors have demonstrated that under ordinary circumstances they are able to meet this timeline. However, when potential task orders are unusually large or complex, five (5) days may not be adequate.

2. Therefore, to ensure all CAPS contractors are afforded reasonable time to respond to solicitations, the following requirements shall be effective immediately:

- a. For potential orders valued at \$10M or greater, solicitations should provide for a ten (10) business day response time.
- b. For potential orders valued at \$20M or greater, solicitations should provide for a fifteen (15) business day response time.
- c. Consideration should also be given to the complexity and uniqueness of each effort. Complex and/or unique requirements may require longer response times regardless of the dollar value. In those situations, RFP response times should be adjusted to allow contractors a reasonable period to propose.
- d. Use of shorter response times requires written approval signed by the Chief of Contracted Services Management (AQZ). This waiver shall detail the circumstances that require shortened response times and shall be included in the official contract file of the resulting order.
- e. The CAPS Chief of Contracting shall review the CAPS contracts to determine whether this policy requires a contract change and issue contract modifications if necessary.

3. This letter is in effect until superseded or rescinded.

  
HOWARD E. MARKS JR.  
Director, Acquisition Excellence





**DEPARTMENT OF THE AIR FORCE**  
HEADQUARTERS AERONAUTICAL SYSTEMS CENTER (AFMC)  
WRIGHT-PATTERSON AIR FORCE BASE OHIO

1 Dec 2009

MEMORANDUM FOR ASC/AQZP  
ASC/AQZC  
All CAPS customers

FROM: ASC/AQZ

SUBJECT: Independent Government Cost Estimates

Reference: Department of Defense, Office of Inspector General, Draft Report of Audit, Advisory and Assistance Services Contracts in Support of the Air Force Combat Search and Rescue Helicopters (Project No. D2009-D000AB-0073.00)

1. Recommendation A.2. of the referenced draft audit report recommended independent government cost estimates be better documented within the requirements packages and the contract files. The Inspector General (IG) wanted, in particular, for that documentation to fully support the methodology used to develop the estimate. The Air Force agreed that independent government cost estimates and the methodology used to prepare them could be better documented. Reviewers should be able to ascertain from the contract file documentation how government cost estimates were developed, who developed them and when they were completed.

2. Therefore, effective immediately, all independent government cost estimates provided to the CAPS program office must contain the following:

- a. A description of the methodology used to prepare the estimate, including how labor rates were selected; basis of estimated hours; basis of estimated other direct costs and basis of estimated travel expenses.
- b. Signature and title of the person who prepared the estimate.
- c. Date the estimate was completed.

No solicitation will be issued by the CAPS program office until an appropriate independent government cost estimate has been submitted and accepted by the CAPS program office. Should a government cost estimate lack of the information described above, a requirements package will be deemed incomplete.

4. Any questions or concerns should be addressed to the program manager assigned to manage your organization. Questions or concerns can also be addressed to the undersigned at 937-656-4459.

ERIN A. MURPHY  
Chief  
Contracted Services Management (ASC/AQZ)

## 669<sup>th</sup> AESS Policy

### Management of Morale Fund

1. The 669<sup>th</sup> AESS Morale Fund has been established to provide a monetary operating fund for the purpose of supporting authorized events and social obligations. Authorized events and social obligations include, but not limited to:
  - a. Farewell memento/plaque, given to personnel leaving the organization
  - b. Flower arrangements for birth of child, 669<sup>th</sup> individual's hospitalization or death, or death of an immediate family member (spouse, parent, or child)
  - c. Marriage gift for 669<sup>th</sup> individuals
2. The funds will be generated through the operation of a snack bar area within the 669<sup>th</sup> AESS. Participation is strictly voluntary and is open to all members of the Squadron.
3. Administrator of the fund will be a government employee volunteered. This is considered an additional duty and will be rotated on an annual basis.
4. Administrator of the morale fund will keep an itemized account of all incoming and outgoing funds using an excel spreadsheet.
5. Limitations for authorized expenditures are listed below:
  - a. PCA/PCS - \$30 limit. May be used for plaque, picture, engraving, honoree's lunch.
  - b. Retirement/Separations - \$30 limit. May be used for plaque, picture, engraving, flowers, refreshments, and honoree's lunch.
  - c. Marriage, births, illness, death (member, their spouse, children, or parents) - \$30 limit. May be used for flowers, card, donation, or small gift.
6. Changes/deviations to the above policy must be approved by the Director, 669 AESS.



DWAYNE MARSHALL

Director

669<sup>th</sup> AESS/CL



DEPARTMENT OF THE AIR FORCE  
HEADQUARTERS AERONAUTICAL SYSTEMS CENTER (AFMC)  
WRIGHT-PATTERSON AIR FORCE BASE OHIO

MEMORANDUM FOR ASC WING COMMANDERS/DIRECTORS  
ASC SENIOR FUNCTIONALS

FROM: ASC/CC

*5 Feb 18*

SUBJECT: Contractor Access to Draft DoD Inspector General Reports

Reference: Department of Defense, Office of Inspector General (DoD IG), Draft Report of Audit, Advisory and Assistance Services Contracts in Support of the Air Force Combat Search and Rescue Helicopters (Project No. D2009-D000AB-0073.00)

1. In the referenced DoD IG draft report, the DoD IG found that contractor personnel had been given access to a draft DoD IG report. The draft report contained warnings advising that distribution of the report outside DoD was not authorized. These warnings stipulated that safeguards must be in place to prevent the publication or improper disclosure of the information in the report. Despite this warning, contractor personnel had reviewed the draft report. The DoD IG also found that the contractor personnel had provided comments on the report to support the Air Force response. The Inspector General noted that "the drafting of ... agency responses to audit reports from the Inspector General" is an inherently governmental function listed in Federal Acquisition Regulation (FAR) 7.503(c)(20) and concluded that use of contractor personnel to support the Air Force response was prohibited.

2. Contractor personnel are integral members of our Aeronautical Systems Center (ASC) workforce. However, we must remember there are limitations to the tasks that they can perform. The Air Force Materiel Command is in the process of developing policy/guidance to ensure all acquisition personnel understand the restrictions on the use of contractor personnel with regards to DoD IG draft reports. In the interim, I remind you of the existing guidance.

a. For the purposes of the DoD IG restriction, contractor personnel working within ASC are considered non-DoD. Release of DoD IG draft reports to ASC contractor personnel is strictly prohibited without the explicit permission of the DoD Inspector General. ASC personnel shall take measures to ensure that contractor personnel are not given access to draft DoD IG reports.

b. FAR 7.503(c) contains a list of functions considered to be inherently governmental. Item 20 is "the drafting of Congressional testimony, responses to Congressional correspondence, or agency responses to audit reports from the Inspector General, the Government Accountability Office, or other Federal audit entity." Drafting of such responses is inherently governmental and the use of contractor personnel is prohibited. ASC personnel shall ensure no contractor personnel are used to perform this function.

3. Contractor personnel provide vital support to ASC programs. Their contributions enable us to provide outstanding support to the warfighter. However, we must remain mindful that they are contractors and are unable to perform certain functions due to restrictions that have been placed on them by government regulatory authorities.

4. This letter is in effect until superseded or rescinded.

A handwritten signature in black ink, appearing to read 'T. J. Owen', with a stylized flourish at the end.

THOMAS J. OWEN  
Lieutenant General, USAF  
Commander

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Inspector General  
Department *of* Defense

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